



# Regulatory Amendment 36 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region

Gag and Black Grouper Vessel Limit and Black Sea  
Bass On-Demand Gear

Decision Document

June 2024

## Background

### Gag and Black Grouper

In March 2023, the South Atlantic Fishery Management Council (Council) approved Amendment 53 to the Fishery Management Plan (FMP) for the Snapper Grouper Fishery of the South Atlantic Region (Snapper Grouper FMP), and its regulations were effective October 23, 2023. Amendment 53 established recreational vessel limits of two fish per vessel per day or per trip (private recreational and for-hire component, respectively) of gag **and** black grouper. The Council had intended for this to be an **aggregate limit of two gag or black grouper per vessel**, but the amendment implemented a two-fish vessel limit for each species. Given the stock status of gag (overfished and experiencing overfishing) and the aggregate bag limit in place of one fish of either of these species per person, the Council decided in September 2023 to initiate

development of Regulatory Amendment 36 to modify the aggregate vessel limits to two fish (gag or black grouper) per vessel.

### **Black Sea Bass On-demand Gear**

In August 2023, a workshop was held to discuss the experimental use of on-demand (ropeless) pot gear in the commercial black sea bass portion of the fishery. Traditional black sea bass pot fishing gear includes vertical end lines and buoys which stay in the water column for hours while the gear is deployed, presenting an entanglement risk to cetaceans and other protected species. Traditional roped and on-demand gear use the same black sea bass pots (same dimensions, mesh size, escape panels, etc.), and pots equipped with on-demand gear are fished the same way as roped pots, in terms of soak times, bait, etc. On-demand types of gear differ from roped gear by storing buoys and their retrieval devices at depth, existing in the water column only when fishers are present to retrieve the gear. Adaptation of on-demand gear for this style of pot fishing would lower the probability of negative interactions with whales and other marine animals that suffer entanglements. The exempted fishing permit (EFP) that has allowed experimental use of this gear and exemption from time, area, and other sea bass pot requirements (See Appendix A) expires on April 30, 2025.

In September 2023, the Council discussed the continued use of on-demand pot gear beyond the EFP time period. The Council recognizes that the EFP allows this gear to experimentally operate in nearshore waters of the southeast U.S. during winter months, when North Atlantic right whales migrate through that area. However, **this framework amendment does not consider opening areas that are currently closed to pot fishing in the South Atlantic**. Such an action would require more extensive evaluation and discussion, especially given the results of the SEDAR 76 stock assessment that indicates the South Atlantic black sea bass stock is at historically low levels. Consideration of revising stowage or other requirements that may be impractical for the use of on-demand pots in areas currently open to commercial pot fishing can be addressed more quickly through a framework amendment. Therefore, the Council decided to consider regulatory changes to transit stowage requirements (or exemptions to such requirements) that would allow more practical use of on-demand pots in Regulatory Amendment 36.

The Snapper Grouper Advisory Panel (AP) discussed proposed actions for Regulatory Amendment 36 during their March 2024 meeting in Charleston, SC. Their recommendations are listed under each action.

## **Proposed Management Changes in this Amendment**

- Revise the gag and black grouper recreational vessel limit
- Revise transit stowage requirements for commercial black sea bass pots

## **Objectives for this Meeting**

- Review actions, alternatives, and preliminary effects analyses
- Consider selection of preferred alternatives and provide initial rationale
- Provide guidance on further development of actions and alternatives, if necessary
- Consider approval for public hearings

## Tentative Amendment Timing

December 2023	Review decision document and consider approval for scoping
February 12 and 13, 2024	Conduct scoping hearings
March 2024	Review scoping comments and provide guidance on draft actions and alternatives
<b>June 2024</b>	<b>Review modifications to the amendment, select preferred alternatives, and approve for public hearings</b>
Summer 2024	Conduct public hearings
September 2024	Review public comment and approve for formal review
Early-Mid 2025	Regulations effective

## DRAFT Purpose and Need Statements

**Purpose:** The *purpose* of this framework amendment is to revise the gag and black grouper recreational vessel limits and ~~revise black sea bass commercial pot requirements to accommodate the use of on-demand pots~~ specify requirements for on-demand pots while transiting through closed areas.

**Need:** The *need* for this framework amendment is to make recreational vessel limits for gag and black grouper consistent with the goals of the aggregate bag limit for both species and rebuilding of the South Atlantic gag stock, and to allow the more practical transit of a new fishing gear modification that lowers the probability of negative interactions with marine mammals, while minimizing negative social and economic effects to the extent practicable, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and its National Standards.

### Committee Action:

Review Purpose and Need statements with suggested edits from the IPT and provide direction for any further necessary edits.

## Actions and Alternatives

### Action 1. Revise Recreational Vessel Limits for Gag and Black Grouper

**Purpose of Action:** This action considers revising the recreational vessel limits, which have been recently implemented through Amendment 53, to address the Council’s original intent of an aggregate vessel limit that includes both gag and black grouper.

**Alternative 1 (No Action).** The vessel limits for the private component of the recreational sector are two gag per vessel per day and two black grouper per vessel per day, not to exceed the daily bag limit of one gag or black grouper per person per day, whichever is more restrictive. The vessel limits for the for-hire (charter and headboat) component of the recreational sector are two gag per vessel per trip and two black grouper per vessel per trip, not to exceed the daily bag limit of one gag or black grouper per person per day, whichever is more restrictive.

**Alternative 2.** Remove the single species recreational private vessel limits for gag and black grouper. Establish an aggregate **private recreational vessel limit** of two gag or black grouper per vessel per day, not to exceed the daily bag limit of one gag or black grouper per person per day, whichever is more restrictive.

**Alternative 3.** Remove the single species recreational for-hire vessel limits for gag and black grouper. Establish an aggregate **for-hire (charter and headboat) recreational vessel limit** of two gag or black grouper per vessel per trip, not to exceed the daily bag limit of one gag or black grouper per person per day, whichever is more restrictive.

#### Discussion

Recreational retention of gag and black grouper is limited by vessel limits (two gag per vessel and two black grouper per vessel) and aggregate bag limits. The aggregate grouper and tilefish bag limit allows retention of three fish of any grouper or tilefish species per person, subject to retention limits of individual species. The aggregate gag and black grouper bag limit allows retention of one fish of either gag or black grouper per person. Retention of a gag or black grouper would also count toward the aggregate grouper and tilefish bag limit.

#### Snapper Grouper AP Comments

- **Recommended consideration of applying vessel limits in proportion to the number of anglers (e.g. number of anglers/six) for federally-permitted headboats.**
  - The AP noted that U.S. Coast Guard Certificates of Inspection may be useful in defining vessels for a headboat-specific limit.

**MOTION 1:** RECOMMEND THE COUNCIL ADD AN ALTERNATIVE TO ACTION 1 FOR RECREATIONAL FOR-HIRE VESSELS THAT ARE FEDERALLY INSPECTED AND PERMITTED TO CARRY MORE THAN 6 PASSENGERS, TO HAVE AN AGGREGATE GAG AND BLACK GROUPE VESSEL LIMIT OF 2 FISH FOR EVERY 6 PASSENGERS ON BOARD, NOT TO EXCEED A MAXIMUM NUMBER OF FISH PER VESSEL PER TRIP, RANGING FROM 6-12 FISH, NOT TO INCLUDE CAPTAIN AND CREW LIMITS.

**APPROVED BY THE AP (14-1-0ABS)**

**MOTION 2:** RECOMMEND THAT THE COUNCIL SELECT ALTERNATIVE 2 (PRIVATE), ALTERNATIVE 3 (FOR-HIRE) MODIFIED WITH THE REMOVAL OF THE HEADBOAT COMPONENT, AND THE NEW ALTERNATIVE RECOMMENDED FOR THE HEADBOAT COMPONENT AS PREFERRED FOR ACTION 1.

**APPROVED BY THE AP (15-0-0ABS)**

**Alternative 2.** Remove the single species recreational private vessel limits for gag and black grouper. Establish an aggregate **private recreational vessel limit** of 2 gag or black grouper per vessel per day, not to exceed the daily bag limit of 1 gag or black grouper per person per day, whichever is more restrictive.

**Alternative 3.** Remove the single species recreational for-hire vessel limits for gag and black grouper. Establish an aggregate **for-hire (charter and headboat) recreational vessel limit** of 2 gag or black grouper per vessel per trip, not to exceed the daily bag limit of 1 gag or black grouper per person per day, whichever is more restrictive.

**Effects Summary**

**Biological**

- **Alternatives 2 and 3** are expected to reduce landings per recreational trip for gag and black grouper.
- Under all alternatives considered, gag landings are still expected to reach the annual catch limit. Therefore, an annual reduction in gag landings is not expected under **Alternatives 2 and 3**.
- The gag recreational season is expected to be extended by **Alternatives 2 and 3**, relative to **Alternative 1**.
- Black grouper recreational landings are not expected to reach the ACL under any of the alternatives considered, so an annual reduction in landings of black grouper would be expected under **Alternatives 2 and 3**. Because the black grouper ACL is not expected to be reached, the recreational season is expected to be open for its full length (May-December) under all alternatives considered.
- Biological effects under **Alternatives 2 and 3** for gag are dependent on the behavioral response of the fishery. No benefit of reduced overall mortality due to landings is expected. Dead releases could be reduced by an extended season because legal-size fish can be kept for a longer portion of the year. Dead releases could increase due to an extended season if the open season motivates prolonged targeting of gag and increased numbers of fish caught above the vessel limit or below the minimum size limit, which would need to be released.
- Biological benefits are expected for black grouper under **Alternatives 2 and 3** due to reduced mortality from landings. Negative biological effects could be experienced due to an increase in dead releases, but these are expected to be mitigated by the following factors: 1) most trips already land 2 or fewer black grouper, 2) few trips land both gag and black grouper, and 3) black grouper are a shallow water species and have a relatively low recreational release mortality rate (20%).

### Economic

- With reduced landings per trip, **Alternatives 2 and 3** are expected to have fewer economic benefits than **Alternative 1 (No Action)** for each of the private and for-hire components of the recreational sector.
- The difference in economic benefit from **Alternative 1 (No Action)** is expected to be greater (i.e. more negative) for the private component (**Alternative 2**) than for the for-hire component (**Alternative 3**).

### Social

- **Alternative 1 (No Action)** would provide the greatest social benefits for communities that value more retained catch over a longer season.
- **Alternatives 2 and 3** would provide the greatest social benefits for communities that value a longer season over more retained catch.
- Fishery participants on vessels that hold larger numbers of anglers (e.g. headboats) are likely to experience stronger negative social effects under **Alternative 3** due to fewer gag and black grouper that can be retained on a per angler basis.

### Administrative

- **Alternatives 2 and 3** could increase short-term administrative burdens due to a change in regulations. However, these regulations are not outside the range of regulations currently enforced in the region.

### **Committee Action:**

Review the range of alternatives and provide guidance to help further develop and analyze alternatives. Consider selection of a preferred alternative.

## Action 2. Revise Transit Stowage Requirements for Black Sea Bass Pots With On-Demand Gear

**Alternative 1 (No Action).** Transit through a marine protected area (MPA), special management zone (SMZ), or spawning SMZ with a black sea bass pot on board is allowed with fishing gear appropriately stowed. Transit means direct, non-stop progression through the MPA, SMZ, or spawning SMZ. Fishing gear appropriately stowed means a sea bass pot is not baited and all buoys must be disconnected from the gear; however, buoys may remain on deck.

**Alternative 2.** On-demand black sea bass pots must be not baited, but may have buoys connected to the gear during transit through a marine protected area, special management zone, or spawning special management zone.

**Alternative 3.** On-demand black sea bass pots must be not baited and buoys must be disconnected from the gear or stowed within the sea bass pot during transit through a marine protected area, special management zone, or spawning special management zone.

### **Discussion**

Under current regulations, buoys are required to be disconnected from pots while transiting through a marine protected area (MPA), special management zone (SMZ), or spawning SMZ [50 CFR 622.183(a)(2)(vii)]. Preliminary input from on-demand black sea bass pot users under the current EFP indicates that buoys are more difficult to disconnect from on-demand gear than traditional, roped gear. Therefore, revision of the transit stowage requirements is being considered to accommodate more practical use of on-demand gear. **Alternative 2** would remove the requirement that buoys be disconnected from the gear while transiting through MPAs, SMZs, and spawning SMZs, for on-demand black sea bass pots.

Under current regulations, while transiting through one of the seasonally closed areas, buoys are required to be disconnected or can remain connected to the pot if the buoy is stowed within the pot [50 CFR 622.183(b)(6)]. **Alternative 3** considers application of this requirement for on-demand black sea bass pots in MPAs, SMZs, and spawning SMZs, as well.

### **Snapper Grouper AP Comments**

**MOTION 3:** RECOMMEND ALTERNATIVE 3 (BUOY CAN BE STORED WITHIN THE POT) AS PREFERRED FOR ACTION 2.

**APPROVED BY THE AP (14-0-1ABS)**

**Alternative 3.** On-demand black sea bass pots must be unbaited and buoys must be disconnected from the gear or stowed within the sea bass pot during transit through a marine protected area or special management zone.

- AP support for the above motion was primarily supported by black sea bass pot endorsement holders who communicated their preference through conversations with AP members.

## Effects Summary

### Biological

- None of the alternatives considered are expected to differ in biological effects on black sea bass.
- If **Alternative 2** or **Alternative 3** encourages more widespread use of on-demand pots, biological benefits could be expected for marine mammals through the reduced probability of entanglements with black sea bass pot gear.

### Economic

- Some economic benefits could be realized under **Alternatives 2** or **3**, for fishermen that use on-demand gear, as less time would need to be spent dismantling or setting up gear when being transported or deployed under either of these alternatives.

### Social

- **Alternatives 2** or **3** would have social benefits of making transit requirements for on-demand gear more practical for commercial fisherman. Additionally, if on-demand gear use becomes more prominent in the black sea bass pot fishery, this could contribute to the recovery of endangered marine mammal populations, providing associated societal benefits.

### Administrative

- **Alternatives 2** and **3** could increase short-term administrative burdens due to a change in regulations. The new regulations under either alternative would not be outside the range of regulations currently enforced in the region.
- Indirectly, if **Alternatives 2** or **3** contribute to an increased use of on-demand gear, administrative burdens could increase as law enforcement priorities for the black sea bass pot fishery shift to an increased number of pots that are not visible or accessible for law enforcement without the fisherman being present.

### **Committee Action:**

Review the range of alternatives and provide guidance to help further develop and analyze alternatives. Consider selection of a preferred alternative.

### **Committee Action:**

Consider approval for public hearings. Provide guidance on the format (in-person or webinar) and timing (before or during the September Council meeting) of public hearings.

DRAFT MOTION: APPROVE REGULATORY AMENDMENT 36 FOR PUBLIC HEARINGS.



## Appendix A. Black Sea Bass On-Demand Gear Use Under Current Regulations



**Figure 1.** TR4RT configurations a) Cowdrey, 2022 (Longsoaker Guardian and SSS hybrid), b) Phillips, 2020, c) Hull, 2022.<sup>1</sup>

Current regulations and requirements for black sea bass pots are summarized below. On-demand and other subsea buoy retrieval systems are not restricted by current regulations, as long as the gear adheres to the requirements applicable to all black sea bass pots in the South Atlantic Exclusive Economic Zone (EEZ).

NOTE: The following black sea bass pot regulation descriptions are summarized and not comprehensive of all terms and conditions. Stakeholders should reference the Code of Federal Regulations (CFR) for comprehensive [regulatory requirements for black sea bass pots](#), also noting regulations for the entire South Atlantic snapper grouper fishery and commercial sector.

- 1. Endorsement [50 CFR 622.170(e)]:** Vessels fishing with black sea bass pots must have a valid endorsement.
- 2. Gear Identification [50 CFR 622.177(a)]:** Sea bass pots used or possessed in the Exclusive Economic Zone (EEZ) between Cape Hatteras, NC, and Cape Canaveral, FL, must be marked with an identification tag issued by the Regional Administrator.
- 3. Special Management Zones (SMZ) [50 CFR 622.182(a)]:** Sea bass pots may not be used in SMZs.
- 4. Prohibited Area [50 CFR 622.182(d)]:** Sea bass pots may not be used in the EEZ south of Cape Canaveral, FL.
- 5. Area Closures [50 CFR 622.183(a)]:** While transiting through marine protected areas (MPA) and SMZs, sea bass pots cannot be baited and all buoys must be disconnected from the gear. Buoys may remain on deck.
- 6. Seasonal Closures [50 CFR 622.183(b)(6)]:**

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<sup>1</sup> Sawicki, 2022. Expansion Project to Modernize Pot Fishing for the Southeast Commercial Black Sea Bass (BSB) Pot Portion of the Snapper-Grouper Fishery Using Subsea Buoy Retrieval Systems. Exempted Fishing Permit Application.

- a. From November 1-30 and April 1-30, no harvest or possession of black sea bass in or from the closed area defined in 50 CFR 622.183(b)(6)(i) using sea bass pots or from a vessel with sea bass pots on board that are not appropriately stowed. In addition, sea bass pots must be removed from the water in the applicable closed area within the South Atlantic EEZ before the applicable time period.
  - b. From December 1 through March 31, no harvest or possession of black sea bass in or from the closed area defined in 50 CFR 622.183(b)(6)(ii) using sea bass pots or from a vessel with sea bass pots on board that are not appropriately stowed. In addition, sea bass pots must be removed from the water in the applicable closed area within the South Atlantic EEZ before the applicable time period.
  - c. While transiting seasonal closed areas, sea bass pots may be on board if all buoys are either disconnected from the gear or stowed within the sea bass pot. Disconnected buoys may remain on deck. [50 CFR 622.183(b)(6)(iii)]
7. **Tending [50 CFR 622.189(a)]:** Sea bass pots can be pulled or tended by the vessel permitted to fish those pots or by another vessel that has written consent of the permitted vessel's owner or operator.
8. **Configuration [50 CFR 622.189(b)]:** Two or more pots may not be attached one to another so that their overall dimensions exceed those allowed for an individual sea bass pot. This does not preclude connecting individual pots to a line, such as a "trawl" or trot line.
9. **Construction:**
- a. Sea bass pots must have escape mechanisms and mesh sizes adhering to requirements defined in 50 CFR 622.189(c) and (d).
10. **Removal [50 CFR 622.189(e)]:** Pots must be removed from the water at the conclusion of each trip and after the quota is reached. After a closure is in effect, a black sea bass may not be retained by a vessel that has a sea bass pot on board.
11. **Number of pots [50 CFR 622.189(f)]:** 35 black sea bass pots per vessel per permit year.
12. **Buoy line Marking Requirements**

*NOTE: Italicized regulations beginning with 50 CFR 229.32... are part of the Marine Mammal Protection Act and not under the Council's management authority.*

- [50 CFR 229.32(b)(2)(ii)] *Buoy line must be marked at least three times (top, middle, bottom) and each mark must total at least 12 inches (30.5 cm) in length. If the mark consists of two colors, then each color mark may be at least 6 inches (15.2 cm) for a total mark of 12 inches (30.5 cm).*
- [50 CFR 229.32(b)(3)] *Color codes for trap/pot gear:*
  - *Southern Nearshore: Orange*
  - *Southeast Restricted Area North (state waters): Blue and orange*
  - *Southeast Restricted Area North (federal waters): Green and orange*
  - *Offshore: Black*
- [50 CFR 229.32(b)(2)(iv)] *All surface buoys must be marked to identify the vessel or fishery with one of the following: The owner's motorboat registration number, the owner's U.S. vessel documentation number, the Federal commercial fishing permit number, or whatever positive identification marking is required by the vessel's home-port state. When marking of surface buoys is not already required by state or Federal regulations, the letters and numbers used to mark the gear to identify the vessel or fishery must be at least 1 inch (2.5 cm) in height in block*

*letters or Arabic numbers in a color that contrasts with the background color of the buoy.*

- [50 CFR 622.189(g)] In addition to the gear marking requirements specified above, from November 15 through April 15, each year, in the Southeast U.S. Restricted Area North and from September 1 through May 31, each year in the Offshore Trap/Pot Waters Area and the Southern Nearshore Trap/Pot Waters Area, the buoy line must be marked with a purple color band. The colored band must be clearly visible when the gear is hauled or removed from the water, including if the color of the rope is the same as, or similar, to the colored band. The purple band must be marked directly onto the line and adjacent to the buoy line markings specified above, that is, at the top, middle, and bottom of each buoy line deployed by, or on board, the vessel. Each of the three purple bands must be a 12-inch (30.5 cm) color mark.